

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAROLINE ANGULO, a single person, ERIC KELLER, a single person, ISABEL LINDSEY and CHARLES LINDSEY, a married couple, and CHRISTINE BASH, individually and as a personal representative of the ESTATE OF STEVEN BASH,

Plaintiffs,

V.

PROVIDENCE HEALTH & SERVICES – WASHINGTON, a non-profit Washington corporation, also d/b/a PROVIDENCE ST. MARY MEDICAL CENTER; DR. JASON A. DREYER, D.O., and JANE DOE DREYER, husband and wife and the marital community thereof; DR. DANIEL ELSKENS, D.O., and JANE DOE ELSKENS, husband and wife and the marital community thereof; and JOHN/JANE DOES 1-10, and any martial communities thereof,

Defendants.

No. 2:22-cv-00915-JLR

PROVIDENCE'S RESPONSE TO NON-PARTY MULTICARE HEALTH SYSTEM'S MOTION TO QUASH

**NOTED ON MOTION
CALENDAR: July 7, 2023**

1 On June 21, 2023, Non-Party MultiCare Health System (“MultiCare”) moved to quash a
 2 subpoena Plaintiffs issued seeking information concerning the MultiCare patients who
 3 underwent surgeries with Defendant Dr. Jason Dreyer (the “Motion”). Dkt. 90. Plaintiffs
 4 ostensibly seek information related to the residency and citizenship of these patients as the third
 5 putative class for which they assert claims in this action. Dkt. 80 ¶ 6.2.3. Defendant Providence
 6 Health & Services – Washington (“Providence”) supports MultiCare’s Motion to the extent
 7 Plaintiffs’ subpoena is overbroad in the information it seeks; implicates discovery to which
 8 MultiCare has objected in the case *Rae et al. v. MultiCare Health Sys. et al.*, Case No. 22-2-
 9 06780-8 (Spokane Cnty. Super. Ct.); fails to comply with notice requirements under RCW
 10 70.02.060; and otherwise violates patient privacy rights and protections. *See* Motion at 4-9.

11 The Court accordingly should grant MultiCare’s Motion and quash Plaintiffs’ subpoena
 12 in its entirety. However, if the Court does not grant the Motion in full, Providence believes that
 13 the administrator (JND Legal Administration) it proposed to manage jurisdictional discovery
 14 with respect to the Providence patients at issue, could do so as well for the MultiCare patients, in
 15 the same manner Providence described in its proposal as set forth in the joint statement the
 16 parties filed on June 21, 2023 (Dkt. 92 at 3-4, 15-19).

17 As Providence explained in its joint statement positions, JND could manage the complete
 18 jurisdictional discovery process—including mailing notices to patients and compiling responses
 19 regarding patients’ state residency and citizenship—to efficiently obtain the limited jurisdictional
 20 discovery necessary for the Court to determine whether it has subject matter jurisdiction in this
 21 case. JND could manage this process (subject to MultiCare’s approval) for both the Providence
 22 and MultiCare patients by being engaged by Providence and MultiCare as a business associate
 23 under HIPAA such that Providence and MultiCare could disclose PHI to JND without patient
 24 authorization pursuant to RCW 70.02.050 to facilitate the jurisdictional discovery process.
 25 Providence’s proposal is the most protective of PHI (requiring disclosure of patient identifying
 26 information only to JND, as opposed to the six or more different entities/individuals proposed by

1 Plaintiffs) and it addresses both Providence's and MultiCare's concerns regarding Plaintiffs'
2 counsel's potential misuse of the narrow jurisdictional discovery permitted for solicitation
3 purposes. *See* Dkt. 92 at 16-17; Motion at 9-10.

4 The Court should quash Plaintiffs' subpoena for the reasons MultiCare asserts. But if it
5 does not, Providence asks the Court to adopt Providence's proposal whereby JND would manage
6 the jurisdictional discovery process for both the Providence and MultiCare patients at issue.

7

8 || DATED this 3rd day of July, 2023.

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NON-PARTY MLUTICARE HEALTH
SYSTEM'S MOTION TO QUASH
(2:22-cv-00915-JLR) - 2

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this day, I had the foregoing electronically filed with the Clerk of
3 the Court using the CM/ECF system, which will send notification of such filing to those attorneys
4 of record registered on the CM/ECF system. All other parties (if any) shall be served in accordance
5 with the Federal Rules of Civil Procedure.

6 DATED: July 3, 2023

7 _____
8 *s/Ross Siler*
Ross Siler, WSBA #46486